

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

ASD SPECIALTY HEALTHCARE, INC.)
d/b/a ONCOLOGY SUPPLY COMPANY)
)
Plaintiff,)
)
v.) Case No. 1:05-cv-591-F
) (WO)
ONCOLOGY HEMATOLOGY CENTERS)
OF ATLANTA, P.C., *et. al.*,)
)
Defendants.)

ORDER

This cause is before the Court on Plaintiff's Application to the Clerk of the Court for Entry of Default Judgment against Defendant Oncology Hematology Centers of Atlanta, P.C. (Doc. # 15).

"[W]hen one of several defendants who is alleged to be jointly liable defaults, judgment should not be entered against that defendant until the matter has been adjudicated with regard to all defendants, or all defendants have defaulted." 10A Charles Allen Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2690 (3d ed. 1998).

See also Frow v. De La Vega, 82 U.S. (15 Wall.) 552 (1872); *Pfanenstiel Architects, Inc. v. Chouteau Petroleum Co.*, 978 F.2d 430, 433 (8th Cir. 1992) ("When there are multiple defendants who may be jointly and severally liable for damages alleged by plaintiff, and some but less than all of those defendants default, the better practice is for the district court to stay its determination of damages against the defaulters until plaintiff's claim against the

nondefaulters is resolved.”). In the present action, the Clerk of the Court entered a default against Defendant Oncology Hematology Center of Atlanta, P.C. (hereinafter “OHCA”)(Doc. # 14), but not against Defendant Lloyd G. Geddes (hereinafter “Geddes”). Therefore, the Court cannot enter a default judgment against OHCA until the issues in this case against Defendant Geddes have been resolved by way of dispositive motion, settlement, or trial. Accordingly, it is hereby

ORDERED that Plaintiff’s Application to the Clerk of the Court for Entry of Default Judgment against Defendant Oncology Hematology Centers of Atlanta, P.C. (Doc. # 15) is DENIED.

DONE this 5th day of December, 2005.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE